

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KRISTINA GARCIA,

Plaintiff,

v.

CASE NO.: 2:19-cv-11673

Hon. Judge Linda v. Parker

BEAUMONT HEALTH and

Magistrate Judge David Grand

RACHEL LUCA,

Defendants.

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REPLY BRIEF IN SUPPORT OF PLAINTIFF'S REVISED MOTION FOR  
DEFAULT JUDGMENT AGAINST DEFENDANT LUCA

## INTRODUCTION

Plaintiff, Kristina Garcia, through her Attorneys, Lisa C. Ward and Veronica Stachurski, Law Offices of Lisa C. Ward, PLLC, and pursuant to Local Rule 7.1, hereby submits her Reply In Support of the Revised Motion For Default Judgment Against Defendant Luca, which was filed on November 8, 2021. For the reasons set forth below and in Plaintiff's Revised Motion For Default Judgment Against Defendant Luca, Plaintiff requests that this Court enter a judgment against Defendant Luca in the amount of \$222,145.40 or schedule an evidentiary hearing on the issue of damages.

## PROCEDURAL HISTORY

On August 30, 2019, a clerk's entry of default was entered against Defendant Luca when she failed to answer or otherwise defend against Plaintiff's Amended Complaint, which was personally served on her. (ECF No. 10) Plaintiff's Amended Complaint contains a claim for retaliation against Defendant Luca under the Elliott-Larsen Civil Rights Act, MCL 37.2101 et. seq., which this Court held stated a viable claim against Defen-

dant Luca in its March 6, 2020 Opinion And Order Granting In Part And Denying In Part Plaintiff's Motion To Amend Complaint. (ECF No. 26)

Plaintiff's November 8, 2021 Revised Motion For Default Judgment Against Defendant Luca (ECF No. 87) requested damages in the amount of \$222,145.40, or in the alternative, that this Court schedule an evidentiary hearing on the amount of damages. Although Defendant Beaumont Health attempted to file a response opposing Plaintiff's motion (ECF No. 92), for the reasons set forth in Plaintiff's Motion To Strike (ECF No. 93), Defendant Beaumont Health lacks standing to object because it is no longer a party to this case. In addition, it must be noted that the position taken by Defendant Beaumont Health in its response is contrary to the law underlying default judgments and contrary to prior rulings of this Court.

### ARGUMENT

Fed. R. Civ. P. 55(b)(2) establishes the procedure that this Court must follow when determining whether to enter a default judgment against a party that has failed to plead or otherwise defend against a complaint. Once a default is entered against a party, all well plead allegations in the complaint are taken as admitted. *Visionerring Construction v. Fidelity and Guaranty*,

661 F.2d 119, 124 (6th Cir. 1981). *Ford Motor Company v. Cross*, 441 F.-Supp.2d 837 (E.D. Mich. 2006).

In the event this Court decides to consider the response of Defendant Beaumont Health opposing Plaintiff's Revised Motion For Default Judgment Against Defendant Luca, its position lacks merit. Based on the law concerning default judgments, once the clerk entered a default against Defendant Luca, this Court must assume all well pleaded allegations as true with regard to Defendant Luca. In the March 6, 2020 Opinion And Order Granting In Part And Denying In Part Plaintiff's Motion To Amend Complaint (ECF No. 26), this Court ruled that Plaintiff has pled sufficient facts to establish her claim of retaliation against Defendant Luca under the Elliott-Larsen Civil Rights Act. (ECF No. 26, PageID.144)

Nothing in this Court's October 25, 2021 Opinion And Order Granting Defendant Beaumont Health's Motion For Summary Judgment vacated the prior March 6, 2020 Opinion And Order Granting In Part And Denying In Part Plaintiff's Motion To Amend. In addition, a review of the Motion For Summary Judgment reveals that it was not filed on behalf of Defendant Luca and it did not address Defendant Luca's liability for retaliation against Plaintiff. Thus, Defendant Beaumont's Health's arguments to the contrary

are without merit, and based on the case law underlying default judgments and prior rulings of this Court, Plaintiff has established her right to a default judgment against Defendant Luca.

### RELIEF

WHEREFORE, for the above-stated reasons, and the reasons set forth in Plaintiff's Revised Motion For Default Judgment Against Defendant Luca, Plaintiff requests that this Honorable Court enter a judgment against Defendant Luca in the amount of \$222,145.40 or alternatively, schedule an evidentiary hearing to determine the issue of damages caused by Defendant Luca.

Respectfully submitted,

Dated: November 29, 2021

/s/ Lisa C. Ward  
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**PROOF OF SERVICE**

I, Veronica Stachurski, hereby certify that I served a copy of Plaintiff's Reply Brief in Support of Plaintiff's Revised Motion for Default Judgment Against Defendant Luca, via the CM/ECF filing system, which gives notice to all parties.

Dated: November 29, 2021

/s/ Veronica L. Stachurski  
Veronica L. Stachurski  
Attorney at Law